

**[Advisory Opinion 1995-10]**

June 7, 1995

TO: [Name1 withheld]  
County Attorney

[Name2 withheld]  
Assistant County Attorney

FROM: Jay L. Cohen, Chair [signed]  
Montgomery County Ethics Commission

RE: Request for Advisory -Montgomery County Revenue Authority  
Golf/Dinner Outing

You have requested an advisory opinion regarding a recent invitation to the Office to attend a golf and dinner outing hosted by the Montgomery County Revenue Authority (Revenue Authority). Generally, you wish to know whether attending this function as guests of the Revenue Authority would violate any provisions of the Montgomery County Ethics Law.

The following information was included in your request. The Revenue Authority is an instrumentality of the Montgomery County Government and is established pursuant to Chapter 42 of the Montgomery County Code 1994, as amended. The Office of the County Attorney provides legal representation and advice to the Revenue Authority. The Revenue Authority operates several public golf courses in the County as one of its duties. The invitation extended to the Office of the County Attorney involves the Revenue Authority providing to each person who attends: 18 holes of golf; a golf cart (two persons per cart); and dinner following golf. You have indicated that the costs associated with these amenities are: \$20 per person greens fees, and \$10.00 per person for a golf cart. Although dinner will be provided by the [facility], The Revenue Authority will cover the expense of the meal. It is also your understanding that the golf course and clubhouse will remain open to the public during the outing.

Based upon this information, you have asked whether the outing or any portion of it constitutes a gift and, if so, whether it is a gift that may be accepted by the members of the office. See §19A-16 of the Montgomery County Code 1994, as amended. Further, you have asked whether the use of the golf course constitutes an improper use of a County agency facility. See §19A-14 of the Montgomery County Code 1994, as amended. For the reasons discussed below, it is the opinion of the Ethics Commission that the attendance of the employees of the Office of the County Attorney at the Revenue Authority golf outing does not violate the Ethics Law.

The Ethics Law specifically includes the Revenue Authority within the definition of a County agency. §19A-4(a)(3) of the Montgomery County Code 1994, as amended. In addition, the Ethics Law provides the following restrictions upon acceptance of unsolicited gifts and the use of public facilities:

- (c) A public employee must not knowingly accept a direct or indirect gift from any individual or organization that the public employee knows or reasonably should know:

\* \* \*

- (2) does business with the County agency with which the public employee is affiliated . . .

\* \* \*

- (d) Subsection (c) does not apply to:

- (1) meals and beverages under \$50 per event or higher amount, not to exceed \$100, that the Commission sets . . .

§19A-16(c) and (d) of the Montgomery County Code 1994, as amended.

- (c) A public employee must not use any county agency facility, property, or work time for personal use or for the use of another person, unless the use is:

- (1) generally available to the public; or
  - (2) authorized by a County law, regulation, or administrative procedure.

§19A-14(c) of the Montgomery County Code 1994, as amended.

The dinner portion of the outing provided to all attendees is within the clearly permitted gift limits under §19A-16(d), which allows gifts of “meals and beverages under \$50 per event . . . .” Although no dollar figure was provided in your memorandum, it is assumed for purposes of this advisory opinion that the cost of the dinner per person does not exceed the \$50 limit.

The more complicated analysis involves the nature of the golf passes and the use of a County facility. For purposes of this advisory opinion, the Ethics Commission assumes that the use of the golf course and golf carts is a gift as defined under the Ethics Law and that the gift was unsolicited. Based upon these assumptions, the Commission must consider whether the Revenue Authority does business with the Office of the County Attorney, which would preclude the acceptance of the gift under §19A-16(c) set forth above. It is the opinion of the Ethics Commission that the Revenue Authority does not “do business” with the County Attorney’s Office in the sense intended by the Ethics Law. Rather, the two agencies work together for the benefit of the County Government and in furtherance of the County’s operations. Moreover, inasmuch as the invitation permits

all members of the Office to participate, the circumstances suggest that this is a gift that may be accepted by the Office of the County Attorney. If the invitation to the golf outing were solicited by the Office of the County Attorney, the Commission would have to reconsider its opinion to take into account the provisions for solicitations of gifts. §19A-16(a) and (b) of the Montgomery County Code 1994, as amended.

The Ethics Law specifically prohibits a public employee from using “any County agency facility, property, or work time for personal use or for the use of another person, unless the use is . . . generally available to the public, or . . . authorized by a County law, regulation, or administrative procedure.” §19A-14(c) of the Montgomery County Code 1994, as amended. The use of the Revenue Authority golf course, although a public facility based upon its ownership by a County agency, is being used for what amounts to a morale-building event in that one agency is showing appreciation for the work performed by another agency. This is further shown by the office-wide invitation to the Office of the County Attorney. As a result, the commission finds that the participation in the golf outing is not the personal use of a County agency facility.

Based on the reasons set forth in this advisory opinion, the Ethics Commission has determined that the invitation to the golf outing extended by the Revenue Authority to the Office of the County Attorney may be accepted and does not conflict with the Ethics Law. This opinion is based upon the facts stated herein and, in the event that different facts arise, the Ethics Commission would need to address those new circumstances separately. If you have any questions, please do not hesitate to contact the Commission.

cc: Barbara McNally, Executive Secretary, Montgomery County Ethics Commission